U.S. ARMY CONTRACTING COMMAND, EUROPE

Regional Contracting Office, Benelux

Government Purchase Card

ETHICS & FRAUD PREVENTION

GPC Ethics & Fraud Prevention Briefing

Purpose and objective

- Pursuant to AFARS Subpart 5113.270 (6)(c)(ii) and 5 CFR 2638 card holders and billing officials shall receive procurement ethics training. Card holders and certifying officials shall be advised of pecuniary liability under the program for certifying and accountable officials.
- This briefing provides an overview of the standards of ethical conduct of government procurement personnel, as established in the Joint Ethics Regulation (JER) 5500-7-R and Federal Acquisition Regulation Part 3.
- These standards are incorporated in local command policies and regulations for LN employees which are consistent with basic host government laws and Ministry of Defense regulations governing indirect hires working for US Forces in Europe.
- Provide information on preventing fraud and misuse of the GPC.

This Briefing Will Cover

a. Gifts

b. Conflicts of Interest

c. Appearance of a Conflict of Interes

d. Use of Public Office for Private Gain

e. Pecuniary Liability

f. Fraud Prevention

Standards of Ethical Conduct

- Government business shall be conducted in a manner above reproach.
- With complete impartiality and with preferential treatment for none.
- Transactions related to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct.
- The general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest in government-vendor relationships.

Gifts from Vendors

GPC personnel may <u>NOT</u> directly or indirectly solicit or accept a gift from a vendor from whom they make purchases or from whom they may make future purchases.

- A gift is anything of monetary value.
- A gift made to your parents, siblings, spouse, or child counts as a gift made to you.

Gifts (cont.)

Examples of gifts:

- Gratuities
- Favors
- Discounts not available to others
- Entertainment
- Loans or forgiveness of a loan
- Services
- Travel
- Meals
- Lodging
- Calendars, gift baskets, etc.

Examples what is not a gift:

- Modest items of food and refreshments (i.e. cup of coffee)
- Prizes in contest open to the public
- Commercial discounts available to the public or to all Government personnel
- Anything for which you pay market value

Gifts (cont.)

Gift Exception:

You may accept an unsolicited gift with a market value of $20 or less per occasion and no more than an aggregate $50 per year.

Other Exceptions:

- **Gifts received because of personal relationship**
- **Social invitations from persons other than those vendors who are doing business with the government.**

Gifts (cont.)

Regardless of any exceptions that allow accepting gifts, it is always impermissible to:

- **Accept a gift in return for being influenced in the performance of an official act. This is a bribe!**
- **Solicit or coerce the offering of a gift**
- **Accept gifts from the same or different sources so frequently that a reasonable person would think you're using your office for private gain.**

The best practice is to NOT accept a gift!!!

Conflicts of Interest

- GPC personnel are **prohibited** by criminal statute (law) from purchasing from a vendor that they, their spouse, children, or private business partners has a financial interest in.

- GPC personnel also **cannot purchase** from firms with which they are negotiating or have arrangements for future employment. This does not include rejecting an offer or requesting a job application.

- GPC personnel **cannot purchase** from any firm which they serve as an employee, officer, director, trustee, or general partner.

BUT WHAT HAPPENS IF THERE IS A CONFLICT?

Conflicts of Interest (cont.)

Resolving the conflict:

- The card holder must bring the conflict to the attention of their supervisor and/or approving official.
- Consult Ethics Counselor
- Resolution:
  - Have another card holder deal with the particular firm.
  - The card holder is required to divest of the interests causing the conflict (rarely done, not practical).

Appearance of a Conflict

A card holder should not deal with any firm if circumstances exist which would call their impartiality into question. Do not participate in any particular DoD transaction or matter if:

- The matter is likely to affect the financial interest of a member of your household, family, or whom you have a business relationship is involved in the matter, *and*

- a reasonable person with knowledge of the relevant facts could question your impartiality.

No actual conflict may exist, but to people unfamiliar with all the facts, there may appear to be a conflict of interest.

Appearance of a Conflict (cont.)

Resolving the appearance of a conflict:

- The card holder must bring the appearance of a conflict to the attention of their supervisor and/or approving official.
- Consult Ethics Counselor
- Resolution:
  - The approving approving decides whether the card holder should make the buy, weighing the value of the card holder performing the duty versus the risk of the appearance of partiality, or
  - have another card holder deal with the particular firm.

Public Office for Private Gain

GPC personnel may not use their public office for private gain, or for the private gain of friends, relatives, or associates.

- **A card holder may not induce or coerce another to provide any benefit on themselves or others. This is graft!**
- **GPC personnel may not endorse any product, service, enterprise unless so authorized by law or regulation.**

Examples of Private Gain and Gifts

- Three civilian Air Force employees used the GPC to purchase personal items such as car-related merchandise, and home improvement products. The approving official certified on official documents
  that the items were for official use by members of the
  unit.
  Penalty: Convicted of conspiracy to commit fraud, and sentenced to six month and make full restitution.
  U.S. District Court Western District of Louisiana.

Examples of Private Gain (cont.)

- Department of Agriculture card holder received a $500 retail gift card from an office supply company because she always ordered supplies from the company.
  Penalty: One year probation, $500 fine, and 100 hours of community service.
  U.S. District Court Eastern District of Virginia

- An Army sergeant was given a briefcase from a vendor as a goodwill gesture for using his GPC to purchase office supplies from the vendor.
  After an investigation the sergeant returned the briefcase and was counseled.
  U.S. Army CID

Pecuniary Liability

Certifying (approving) officials

Certifying Officials are pecuniarily liable under Title 31 U.S.C 3528 for improper payments resulting from the negligent performance of their duties explained in the DoD Directive 7000.15, "DoD Accountable Officials and Certifying Officers, and DoD 7000.14, DoD Financial Management Regulation", Volume 5, Chapter 33. Such liability may be relieved under specific circumstances.
(Title 31 USC Section 3527).

Legal Responsibilities Of Certifying Officials

A certifying official is responsible for:

1. Ensuring that there is adequate documentation for each individual transaction, and that the information stated in the certificate, voucher, and supporting records is complete and accurate.
2. The computation of a certified voucher
3. Ensuring that the proposed payment is made with the correct appropriated funds.
4. Preventing two or more payments for the same transaction.

31 USC 3528

Relief from Liability

An approving official can be relieved of liability only when:

1. **The certification was based on incorrect information contained in official records, and the approving official did not know the correct information or could not have discovered it by reasonable diligence and inquiry.**

2. **The obligation was incurred in good faith**

3. **No law or regulation specifically prohibits payment**

4. **The U.S. government received value for payment**

31 USC 3528

Card Holders

Personal liability:

You are the government's legal agent for each purchase made with the GPC, and thus you are legally responsible, and accountable for each transaction. As a result you can be held personally liable to the government for any unauthorized transaction.

Criminal liability:

In addition, under Title 18 U.S.C. 287, misuse of the purchase card could result in a fine of not more than $10,000 or imprisonment for not more than five years or both. Military members who misuse the purchase card may be subject to court martial under Title 10 U.S.C. 932, UCMJ Art. 132. Depending on the circumstances, other sections of the US Code may apply and may carry additional penalties.

Fraud Prevention

GPC is for official use only!!!

Your purchase card is issued to you for official government business only. The purchase card can NEVER be used for personal reasons. Because your name is imprinted on the card only you are authorized to use the card. Do not lend it to anyone. No member of your family or your staff, including your supervisor or approving official, may use your purchase card. Safeguard your purchase card number as well as the purchase card itself.

Fraud Prevention
(cont.)

Recognizing Fraud

Fraud is a criminal act with the intent to cheat the government or corrupt the government's agents. Fraud may be committed either by government employees or by merchants. There are two responsibilities each approving official and card holder has relative to fraud:

- You must be alert to indicators of fraud; and
- report suspected fraud immediately.

Fraud Prevention
(cont.)

Indicators of potential fraud by government employees include:

- Repetitive buys from the same merchant
- Splitting requirements to get under the micro-purchase threshold
- Making false statements about what was purchased and its purpose
- Using the purchase card for unauthorized or prohibited purchases

Indicators of merchant fraud include:

- Lack of proper documentation to make the purchase
- False charges/transactions
- Mischarging
- Bribes and gratuities
- Kickbacks
- Selling of overpriced items

Fraud Prevention
(cont.)

Reporting fraud:

You must report all indicators of fraud. Identify the responsible official(s) and report them through the proper channels. You can make reports to any of the following as appropriate:

- **Your approving/billing official**
- **Your A/OPC**
- **Your paying / finance officer (Resource Management Office)**
- **The Bank**
- **Your office of the inspector general (call the hotline), or CID**

Immediately report a stolen or lost purchase card to your A/OPC and the purchase card issuing bank. The bank will mail a new card to you within two business days from the

Fraud Prevention
(cont.)

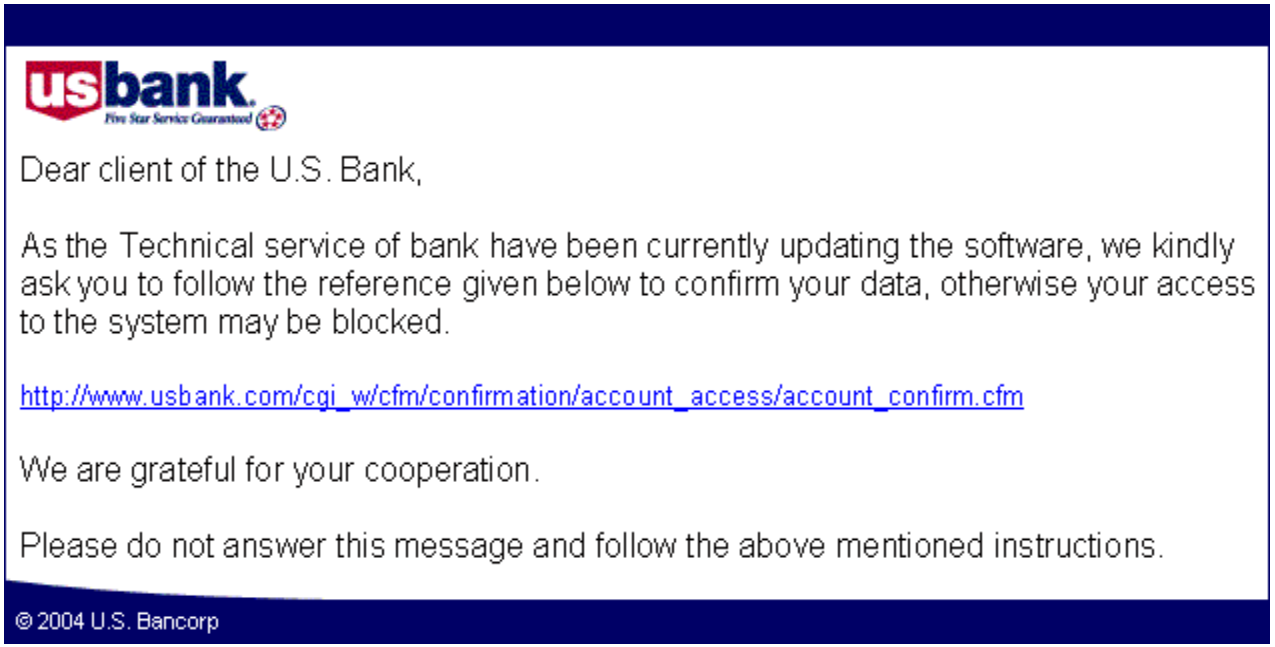
E-mail fraud:

There is an illegal practice called “phishing” where an e-mail appears to come from the bank or VISA™ but is actually an attempt by unknown persons to collect personal information, and account numbers in order to commit theft and fraud.

Fraud Prevention (cont.)

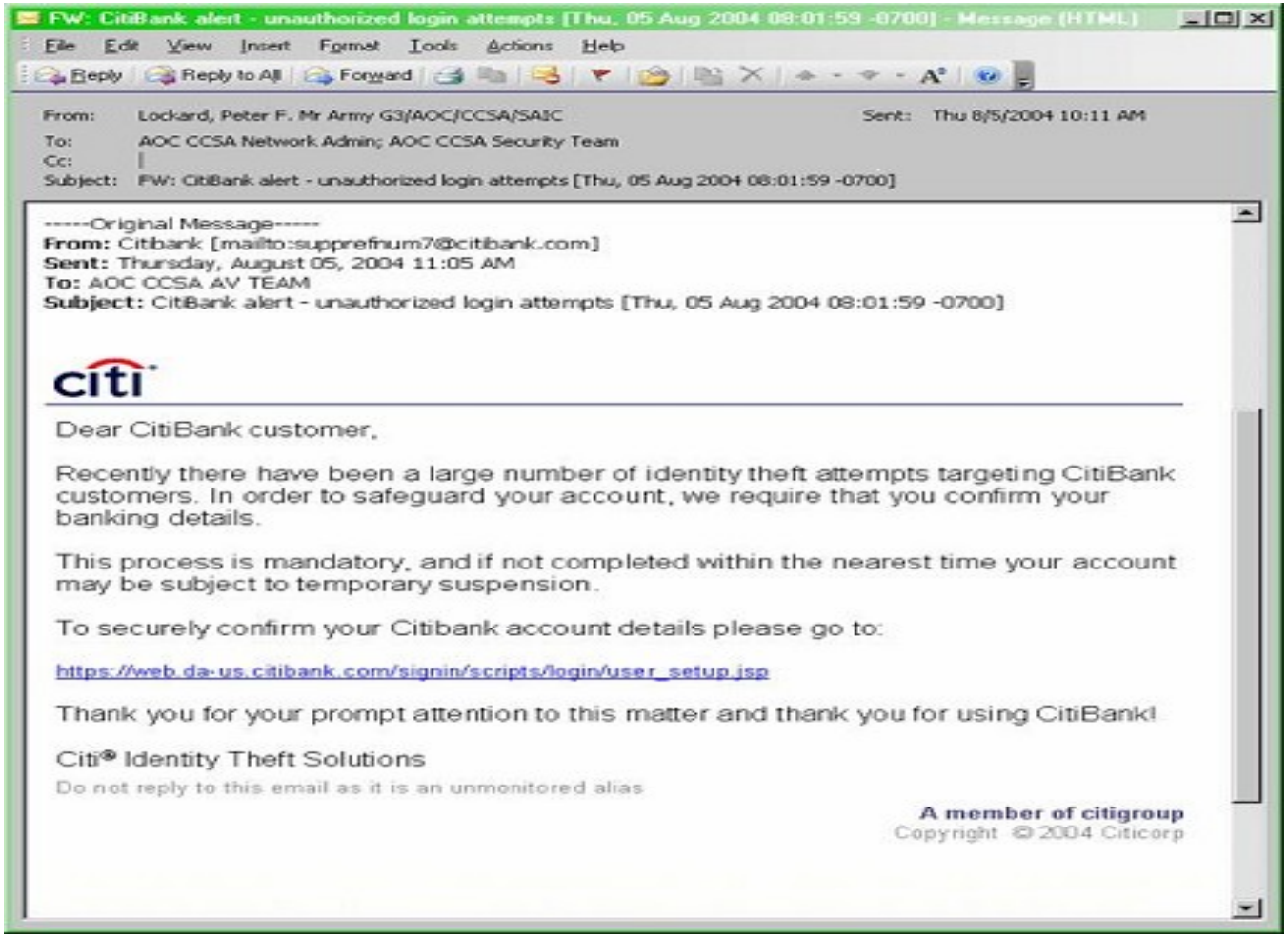
Look at the email below. It is NOT sent out by the US Bank. US Bank would not contact you to get that type of information. This is just an attempt by crooks to get info on your account. Do not click on the web link! It will make your email address vulnerable.

From: U S Bank [mailto:anti-fraud@usbank.com]
Sent: Sunday, July 25, 2004 3:45 PM
To: Reed, Ann K.
Subject: U.S. Bank's account! [Sun, 25 Jul 2004 07:42:19 -0600]


usbank
Five Star Service Guaranteed
Dear client of the U.S. Bank,
As the Technical service of bank have been currently updating the software, we kindly ask you to follow the reference given below to confirm your data, otherwise your access to the system may be blocked.
http://www.usbank.com/cgi_w/cfm/confirmation/account_access/account_confirm.cfm
We are grateful for your cooperation.
Please do not answer this message and follow the above mentioned instructions.
© 2004 U.S. Bancorp

Fraud Prevention
(cont.)

The e-mail below provides a look at how official the email appears and then it asks you to click on the link.



FW: CitiBank alert - unauthorized login attempts [Thu, 05 Aug 2004 08:01:59 -0700] - Message (HTML)

File Edit View Insert Format Tools Actions Help

Reply Reply to All Forward

From: Lockard, Peter F. Mr Army G3/AOC/CCSA/SAIC Sent: Thu 8/5/2004 10:11 AM
To: AOC CCSA Network Admin; AOC CCSA Security Team
Cc:
Subject: FW: CitiBank alert - unauthorized login attempts [Thu, 05 Aug 2004 08:01:59 -0700]

-----Original Message-----
From: Citibank [mailto:supprefnum7@citibank.com]
Sent: Thursday, August 05, 2004 11:05 AM
To: AOC CCSA AV TEAM
Subject: CitiBank alert - unauthorized login attempts [Thu, 05 Aug 2004 08:01:59 -0700]

citi

Dear CitiBank customer,

Recently there have been a large number of identity theft attempts targeting CitiBank customers. In order to safeguard your account, we require that you confirm your banking details.

This process is mandatory, and if not completed within the nearest time your account may be subject to temporary suspension.

To securely confirm your Citibank account details please go to:

https://web.da-us.citibank.com/signin/scripts/login/user_setup.jsp

Thank you for your prompt attention to this matter and thank you for using CitiBank!

Citi® Identity Theft Solutions

Do not reply to this email as it is an unmonitored alias

A member of citigroup

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Fraud Prevention
(cont.)

What to do to protect yourself:

1. **Never give out your account number or other personal data to someone who contacts you via phone or e-mail. The bank and VISA™ already have the information needed to maintain your account. They would never contact you to ask for verification.**
2. **Do not reply to a fraudulent e-mail under any circumstance. Furthermore, do not click on the link in the e-mail.**
3. **Send a copy of suspicious e-mail to the bank's fraud department and your A/OPC if requested.**

Fraud Prevention
(cont.)

Protection of account information:

- Keep your government purchase card(s) and your account information and password(s) secure.
- Do not leave your card or your account number or password in an unsecured drawer.
- Do not tack your card number or your password up on a wall or leave it out for convenience.
- Do not transmit through any media (e-mail, telephone, etc…) names, account number, hierarchy number, e-mail address, transaction information, etc… that is related to any of the purchase card programs.
- If you print a report or a file with account information on it, be sure to have it shredded when you are finished using it.

Consequences

Remember:

- **Violating ethics principles or abuse of the GPC may result in disciplinary or corrective action, including criminal prosecution.**

- **Protect yourself from disciplinary action by seeking the advice of your A/OPC or agency ethics official.**

Conclusion:

- **Don’t be afraid to raise issues with your AOPC or an ethics counselor.**
- **Know your Ethics Counselor**